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EQUAL EMPLOYMENT OPPORTUNITIES: EFFECTS OF DEMOGRAPHIC STATISTICAL ANALYSES IN DISCRIMINATION COURT CHALLENGES

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Civilian Personnel Office

JANUARY 1988

U.S. ARMY MISSILE COMMAND
Redstone Arsenal, Alabama 35898-5000

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The Federal Government's educational program for equal employment opportunities (EEO) has increased the American worker's awareness of their employment rights. This awareness has increased the challenges by Federal employees as to what they perceive as discriminatory practice in personnel selections. To resolve these issues, statistical analyses of data from more than one source is required. Data entry, retrieval, and analysis should be performed by trained personnel who are aware of the implications of adverse impact.

A summary of the history of EEO in the Federal service is presented. A specific case charging discrimination in selection and placement of personnel is cited which illustrates the necessity of complete and accurate statistical data available for analysis. Implications of statistical errors are presented and recommendations for corrective action given.

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I. INTRODUCTION

Since World War II, Americans have grown to expect a continual rise in their standard of living. Chruden and Sherman (1984)[1] state that their expectations, increasingly are being perceived as entitlement, creating what is commonly referred to as a psychology of entitlement. According to Davis (1980)[2], there is a growing belief that the individual is not at fault if expectations are not met but rather it is the fault of the institution or society. Basically the work ethic instills "If I am not successful, something must be wrong with me!" With the decline of the work ethic, many individuals now believe that something is wrong but not necessarily wrong with me. "It might have nothing to do with me but to the situation in which I find myself." What was once viewed as privileges to be won are now regarded as rights or entitlements.

Changing attitudes and enactment of new and sweeping legislation, Executive Orders, and Judicial Decisions have all contributed to a growing willingness to confront and challenge what is perceived as prohibited discriminating activity. Since the 1970s, there has been a marked increase in the number of civil actions filed against both governmental and private sector organizations seeking relief for alleged discriminating personnel actions based on race, color, religion, sex, age, or national origin. The publication of large court settlements coupled with heightened expectations in the overall society will most likely cause this trend to continue. Another factor that has contributed to this impact is the Federal Government's extensive educational program in the equal employment opportunity area.

Present and future personnel administrators, must be aware of and responsive to this growing willingness to confront and challenge what is perceived as prohibited discriminatory activity. Prompt, efficient, and fair handling of perceived discriminatory practices will help to eliminate confusion and distrust and can lead to the settlement of complaints at the lowest possible level. Settlement at the lowest level within an organization not only saves large expenditures of time and money but will also help to keep the employees focused on overall organizational goals.

Prior to the passage of the Civil Service Act of 1883, very little attention had been given to a merit system of appointments and certainly no consideration was given to the concept of equal employment opportunity for appointment to the Federal Service. The creation of the Civil Service Commission by the Civil Service Act of 1883 provided for the use of open, competitive examinations to measure abilities of applicants for Federal employment. Nakano (1978)[3], states that the Civil Service Act was expanded in 1940 to prohibit Federal employment discrimination based upon race, creed, or color. Prior to this expansion in 1940, President Franklin D. Roosevelt issued the first of a series of Executive Orders prohibiting racial, ethnic and religious discrimination in Federal employment [4].

With the approach of and subsequent entry of the United States into World War II it became apparent that blacks, and other minority groups as well as females would be desperately needed for the defense effort. Not only would it be imperative that they serve in the armed forces but they would also be critically needed in the defense industrial effort. The defense arsenal of the

United States was inadequate and much of the defense capability of allied countries had been decimated. Service in the military and private sector during World War II not only provided skill and knowledge but also helped to develop pride in accomplishments made by minorities. The opportunities presented during the war effort would lead to greater involvement in the area of social and economic concerns.

II. US ARMY MISSILE COMMAND

When the Department of the Army or the Department of Defense is mentioned in casual conversation, people usually get the vision of men and women in uniform. While this is often a correct vision, the Department of Defense is far from being strictly a military organization and since the early history of the country has relied on a civilian work force to augment the Department of Defense.

The US Army Missile Command is a 39,000 acre military reservation located on Redstone Arsenal in Madison County, Alabama. This Command is responsible for the total life cycle management of all army missile systems. Total life cycle management includes research, development, production management, procurement, quality assurace, maintenance, and logistics support to US troops or to foreign governments that have purchased army missile systems. There are more than 7,000 civilian and approximately 1,000 military personnel assigned to this Command.

A work force comprised of both military and civilian employees is unique to the Department of Defense because of its dichotomous administrative and organizational structure. Obvious differences include unions, dress, wages, and benefits. As early as 1775, civilians have worked with and for the military as riflemakers, quartermasters, and physicians. With the requirements of more sophisticated weapon systems, the support and contribution made by long term civilians become even more important.

III. EQUAL EMPLOYMENT OPPORTUNITIES

Recorded throughout written history are the problems faced by minority groups in attempting to achieve equal rights from the larger society. With the adoption of the constitution, the emphasis on human rights, and the dignity of mankind, the United States (in spite of the stigma of slavery and the events that were to bring about its abolishment) presented an unusual opportunity for the application of equal employment opportunity. With the exception of the American Indian, all of the different groups converged on America at relatively the same timeframe.

While the war between the states settled the slavery question other very serious problems emerged in the aftermath of the war. The utilization of the spoils system, whereby large nubmers of Federal officeholders were dismissed each time a president was elected from a different party, continued. With the emphasis on rewarding loyal political followers, very little attention was given to equal employment opportunity.

The winds of change were blowing and leading political scientists and essayists were issuing calls for changes in the way that the positions in the Federal Government were filled. The assassination of President Garfield was the event that prodded Congress into paving the way for the Civil Service Act in 1883. The passage of this act in 1883 was an attempt to eliminate the spoils systems and to institute fair employment practices through the creation of the Civil Service Commission. Guidelines developed by the newly created Civil Service Commission called for the utilization of open, competitive examinations to measure skills and abilities of all applicants for Federal employment.

It is an understatement to say that the concept of equal employment opportunity did not immediately catch on. Taylor (1975)[5] credits concern for maximum production from defense industries during World War I and II as being the force that caused equal employment opportunity to surface as an issue. During World War I, President Wilson established the position of Director of Negro Economics. The purpose of this office was to monitor the condition of black wage earners. A comprehensive report was prepared which included information from 46 states. Very little attention was given to this report.

When world events began to draw the United States toward war in the late 1930s and early 1940s, it became readily apparent that the Nation needed all available people to upgrade wartime production. After reviewing employment practices, President Roosevelt was concerned that discriminatory practices would cripple the war effort as well as be a mockery of the United States stated policy of nondiscrimination and freedom for all people regardless of race. As an attempt to help correct the discrimination problem, President Roosevelt issued Executive Order 8802 on 25 June 1941 [6]. This order, for the first time in modern history, established nondiscrimination as a policy based on law. A committee on Fair Employment Practices was established to investigate complaints and to take appropriate steps to redress grievances found to be valid. The small size of the staff suggested that only lip service was being paid to nondiscrimination policies. The committee proved to be ineffective and in 1943 became an independent Federal agency.

President Truman issued Executive Order 9664 [7] on 20 December 1945, which continued the agency into peacetime work. Congress would not appropriate funding and agency members were seeking new employment by May 1946. The activity on the Federal level helped to pave the groundwork for the nondiscrimination issue and on 12 March 1945, New York State established the State Fair Employment Practice Commission, which was soon followed by other states. In August 1945, Chicago adapted the first city ordinances covering fair employment practices.

On the national level, additional support for black and other minorities came from the Committee on Employment Discrimination, an organization primarily oriented toward problems faced by jews. The committee pointed out the disparate unemployment rates between blacks and whites. As an example, the unemployment rate for whites went from 1.7 percent in July 1945 to 3.9 percent in April 1947, while the black rate went from 2.0 to 6.7 percent. In Detroit, for example, 70 percent of available semi-skilled and unskilled openings carried blatantly discriminatory specifications. A survey of job announcements in Ohio showed that out of 61,000 requests for laborers, 1400 specified "white only". Jobs available to blacks consisted primarily of janitorial, maintenance, and groundskeeping. The Committee on Employment Discrimination attempted to get a bill passed which would have re-established the Fair Employment Practice Committee and established nondiscrimination policies similar to those in effect during World War II. The bill, as written, would have covered all employers with 50 or more employees. Municipal and state agencies, nonprofit religious, charitable, fraternal, social, and educational associations would have been exempted. The bill was supported by President Truman, but did not receive necessary support in Congress. With the defeat of this bill, fair employment practices received very little national attention until the early 1960s. Information in this paragraph was gleaned from Taylor's study [5].

While the Government was not included in the Civil Rights Act of 1964, the statute did state that the United States policy was to ensure nondiscrimination in Federal employment. Executive Order 11246 [8], issued by President Lyndon B. Johnson transferred Federal equal employment enforcement to the Civil Service Commission and established the policy of the Government to:

> "Provide equal opportunity in Federal employment for all qualified persons, to prohibit discrimination in employment because of race, creed, color, or national origin and to promote the full realization of equal opportunity through a positive continuing program in each executive department and agency" (p.1).

Executive Order 11375 [9], prohibited discrimination on the basis of sex. On August 1969, President Nixon issued Executive Order 11478 [10], which stated that "equal employment opportunity must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the Federal Government" (p.1). Executive Order 11478 set forth a new direction for the Equal Employment Opportunity Program and emphasized that each Federal agency was responsible for developing an affirmative action program.

According to the Comptroller General's Report [11], the order stated that the Government policy was to:

a. Provide equal opportunity in Federal employment for all persons.

b. Prohibit discrimination in employment because of race, color, religion, sex, or national origin; and

c. Promote full equal employment opportunity through a continuing affirmative action program of each executive department and agency.

This equal opportunity was to apply to, and be an integral part of, every aspect of personnel policy and practice in the employment, development, advancement, and the treatment of civilian employees of the Government.

Under Executive Order 11478 [9], the Civil Service Commission was directed to:

a. Review and evaluate program operations.

b. Obtain necessary data and report to the President on overall progress.

c. Issue appropriate regulations, orders, and instructions with which agencies must comply.

d. Provide prompt, fair, and impartial consideration of all complaints involving Federal employment discrimination.

e. Provide counseling for employees who believe they have been discriminated against and encourage informal resolution of of these matters.

f. Provide for appeals of decisions to the Civil Service Commission following impartial review by the Federal agency involved.

The Equal Employment Opportunity Act of 1972 [12] was the legal basis for assuring equal employment opportunities for females and minorities. The Civil Service Commission was assigned responsibility for leadership and enforcement. Under the terms of this act, each Federal agency was directed to establish an Equal Employment Opportunity program as a part of the personnel policy. A major thrust of the act was to provide affirmative action for increasing representation of minorities and females in the Federal work force. Agencies were required to continuously report progress made toward Equal Employment Opportunity actions.

Additionally, the Civil Service Commission was required to:

a. Annually approve national and regional Equal Employment Opportunity plans (commonly referred to as affirmative action plans) submitted to each agency.

b. Review and evaluate the operation of agencies' Equal Employment Opportunity programs.

c. Publish periodic reports reflecting the Government's progress in providing Equal Employment Opportunity.

The Civil Service Reform Act, enacted on October 13, 1978 [13], stated that in order to have a competent, honest, and productive work force, personnel management should be implemented consistently with the merit system principles.

> One of the primary principles, as defined by the act, was that: "Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition, which assures all receive equal opportunity" (Public Law 95-454 Civil Service Reform Act, 1978).

Public policy, as defined by Congress in the above paragraph, by passage of the Civil Service Reform Act, is to recruit and attract a Federal work force that mirrors the larger society as to race, sex, and ethnic group. Each Federal agency is required to analyze their work force regarding composition of females and minorities and, accordingly, design an affirmative action program that will allow the agency an opportunity to achieve a work force that mirrors the civilian labor force of the recruitment area.

IV. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

The Federal Government, with approximately 2.7 million employees, is the Nation's largest employer and has long been considered as a model for equal employment as well as other innovative personnel management practices. Laws passed by Congress and the issuance of Executive Orders pushed the issue of equal employment opportunity toward the forefront in the 1960s and 1970s. While the issue of equal employment opportunity became a major concern, directives and guidelines as to what was prohibited practice were often confusing and varied from one government agency to another.

Because of the confusion surrounding what appeared to be discrimination in employment practices, the Equal Employment Opportunity commission and the Federal agencies developed and issued guidelines but failed to agree on a common group of guidelines for all Federal agencies. The origins of the guidelines can be traced to the Civil Rights Act of 1964. Title VII of this act called for the elimination of discriminating employment practices, while at the same time allowing the continued use of preemployment tests to select employees.

According to the Comptroller General's report, July 30, 1982, [14], Congress specifically authorized the use of "any professionally developed ability test provided that such test, it's administration or action upon the results is not designed, intended or used to discriminate." The Equal Employment Opportunity Commission established under Title VII was designed to carry out provisions of the Civil Rights Act of 1964. Instead of one set of guidelines, different agencies issued their own guidelines. During the late 1960's and early 1970's, the Equal Employment Opportunity Commission, the Department of Labor, and the Civil Service Commission, under separate legal authorities, each developed and issued guidelines on the proper use of tests and other selection procedures [14]. Critics charged that these guidelines were inconsistent and represented the improper and inefficient utilization of Government and employer resources.

In 1976, the Civil Service Commission, along with the Departments of Labor and Justice, developed and issued common guidelines. The Equal Employment Opportunity Commission chose not to accept these quidelines but, republished its 1970 guidelines. In 1978 the Uniform Guidelines on Employee Selection Procedures were completed and subsequently adopted by the Equal Employment Opportunity Commission (EEOC), the Office of Personnel Management (formerly the Civil Service Commission), the Department of Justice and Labor, and the Department of the Treasury's Office of Revenue Sharing.

The purpose of the guidelines was to establish a uniform Federal position on the prohibition of discrimination regarding religion, sex, or national origin. The guidelines were also intended to aid employees, labor organizations, employment agencies, and licensing and certification boards to comply with Federal Equal Employment Opportunity law and to provide a framework for determining the proper use of tests and other selection procedures [14]. Provisions of the guidelines are supposed to be consistent with professionally accepted procedures of the psychological profession and are to demonstrate the relationship of a test to performance. Policy provisions describe the responsibilities of employers for detecting the adverse impact of a selection proce-

dure and the option a user has if impact is found. Adverse impact is usually indicated when one race, sex, or ethnic group's selection rate is less than 80 percent of the rate for the group with the highest selection rate.

The guidelines require those organizations, covered by the provisions, collect data on the effects of their selection procedures. Data collected indicates the sex and racial and ethnic grouping of those selected. This data is analyzed to determine whether the recruitment and placement procedures have caused adverse impact on any protected group.

The guidelines also require users to collect, maintain, and analyze race, sex, and ethnic group selection data on virtually all applicants for all employment decisions for all jobs. The definition of applicants can vary according to a user's recruitment and selection procedures. The general definition of applicant is a person who has indicated an interest in being considered for hiring, promotion, or other employment opportunities. Suggestions have been made to define an applicant as a person who has completed and filed a formal written application for a specific job for which an employer is accepting applications and for which the person is minimally qualified for the job.

The guidelines also require users to maintain and have available for inspection, records showing whether their tests adversely affect the employment opportunities of any group covered by the guidelines. Adverse impact determinations should be made annually for groups constituting at least 2 percent of the labor force in the relevant labor area or 2 percent of the work force. The guidelines do not indicate how long such records should be maintained if no adverse impact is discovered.

V. DISCRIMINATION COMPLAINT

As a result of non-selection for the position of Contract Specialist/Procurement Analyst/Contract Price Analyst, GS-1102-5 potential 9 under internal merit promotion, a group of black employees from the Missile Command filed grievances alleging race discrimination in the selection process. (This position will hereinafter be referred to as "contract specialist.") Had either of the grievants been selected for the position, it would have represented a promotion for each of the plaintiffs. The administrative complaint was processed in accordance with 29 CFR Part 1613, and a hearing was conducted by the US Army Civilian Appellate Review Agency. The hearing resulted in a finding that there was no discrimination against any of the plaintiffs under internal merit promotion procedures.

For the period of time under contention by the plaintiffs (October 1, 1982 - September 1, 1985) there were three methods that were utilized to fill Contract Specialist, GSO-1102-5 potential 9, positions. During this timeframe, there were 92 Contract Specialist, GS-5 potential 9, positions filled. The three methods are as follows:

a. Internal Promotions. Merit promotion announcements are issued to the work force and employees who want to be considered can apply against the announcements. During the period of contention, there were three separate merit promotion announcements. The three announcements were identified as RAMPS Announcement 352-82, RAMPS Announcement 84-007, and RAMPS Announcement 84-001. All applicant's submissions are reviewed by a personnel staffing specialist to determine basic experience and/or educational requirements. Applicants who fail to meet the basic qualification requirements are notified in writing. Applications that meet the basic requirements are referred to a panel of subject matter experts for further review. The panel of subject matter experts examine each candidate's experience and total background and compare the respective backgrounds against the knowledges, skills, and abilities that are required in the position that is being announced through the Merit Promotion Program. Candidates that meet or exceed predetermined levels predescribed by the crediting plan of the position to be filled are certified by the panel of subject matter experts as best qualified. All best qualified applicants are submitted to selecting supervisors who have a position to be filled. Supervisors may select any of the candidates from among the best qualified list. The best qualified list is maintained for a period of six months and a new announcement is then made. Candidates who do not make the best qualified list are notified in writing. Candidates who are rated as not qualified because they lack time in grade or specialized experience, and who will gain the qualifying experience or time in grade prior to the time the merit promotion list expires (six months), will be added to the list as they become eligible.

b. Schedule B. In addition to selecting from merit promotion lists, the supervisor may consider and select candidates from outside the Federal service through the Schedule B appointment authority. Schedule B candidates are applicants from outside the Federal service who possess superior academic qualifications for the position that is being filled.

c. Cooperative Education Program - Supervisors may utilize this method to fill Contract Specialist, GS-1102-5 potential 9, positions. Candidates from this authority are people who have worked an internship at the Missile Command while attending college and are eligible for conversion to Federal service. The Missile Command has an implied contract to employ students who have completed the internship.

VI. STATISTICAL SELECTION INFORMATION

The plaintiffs who were all employees of the US Army Missile Command were referred for consideration under Merit Promotion Announcement Number RA 84-001. Because of non-selection for the position of Contract Specialist, GS-1102-5 potential 9, each person who later became plaintiffs in the court case exhausted all of their options for relief through the formal administrative procedures that are available within the Department of the Army. At no point in the administrative process was a finding of discrimination made. As a result of dissatisfaction with the decision rendered, three of the complaintants employed a lawyer and proceeded into Federal court.

A close review of the archival selection data was conducted of Merit Promotion Announcement Number RA 84-001. The archival data was retrieved from the Missile Command automated data file and is depicted in Table 1.

TABLE 1. Comparison of Selection Rates of Black Candidates Against the Selection Rate of White Candidates for Merit Promotion Announcement Number RA-84-001.

369 Best Qualified Candidates

	No. Within Reach for Selection	No. Selected	Selection Rate Percent Selected
White	321	28	8.7
Black	48	3	6.3

Calculation of Adverse Impact $\frac{6.3}{8.7} = 72\%$

As outlined in Table 1 above, the selection rate for blacks was 72 percent of the rate for the largest selection group (whites, in this case). The lower selection rate for blacks indicates adverse impact for this particular merit promotion announcement. It is not known what effect this selection rate had on the attorney employed by the plaintiffs in the decision to pursue the case in Federal court. The statistical data for one announcement represents only a portion of the actual selections for the period challenged in court (October 1, 1982 - September 1, 1985).

According to the Comptroller General's report [14], with certain exceptions, adverse impact is determined for each job on a bottom line basis. That is, the rate is determined by the combined effect of all selection procedures used by an employer such as written tests, interviews, and reference checks. When all of the recruitment data for all referrals for Contract Specialist, GS-1102-5, positions was analyzed for the period October 1, 1982 until September 1, 1985, it revealed that there was no adverse impact against black candidates.

TABLE 2. Statistics Data for all Referrals for Contract Specialist, GS-1102-5, Positions for the Period October 1, 1982 to September 1, 1985.

1,147 Best Qualified Candidates

	No. Within Reach for Selection	No. Selected	Selection Rate Percent Selected
White	943	64	6.8
Blacks	204	13	6.4

Calculation of Adverse Impact $\frac{6.4}{6.8} = 94\%$

A comparison of the data in Table 1 and Table 2 shows that while the one merit promotion announcement (RA-84-001) indicated adverse impact against blacks, the statistical data from all sources for the period October 1, 1982 until September 1, 1985 reveal no impact. Had the plaintiffs and their attorney examined the data, they might not have chosen to seek relief in the court system. No where do the guidelines suggest that every announcement or source must be impact free, but instead the complete selection process must meet the requirements for no adverse impact.

Kennedy, 1987 (15) reported on the change in the information presented in Table 1 brought about by a re-check of the data through verification from direct observation. The re-check was completed because of the numerous interrogations that were submitted by attorneys of the plaintiffs and the increasing awareness of the possible impact of only a small number of blacks selected as well as the number within reach for selection. The re-check actually changed the calculation of adverse impact as depicted in Table 1 from 72 percent to 80 percent which indicates no adverse impact.

VII. IMPLICATIONS

One of the major implications for organizations faced with discrimination court cases is whether or not to volunteer information to plaintiffs concerning overall statistical data prior to initiation of court proceedings. If this information is favorable to the organization, it might serve to discourage the filing of cases. If the information is not favorable, it could serve as an impetus for the plaintiffs to move ahead which would not be to the advantage of the organization.

Another implication is that organizations should be analyzing data for possible adverse impact long before a legal challenge is faced. If recruitment procedures are not in compliance with the guidelines, adjustments should be made.

Personnel involved in recruitment and placement actions should be thoroughly trained in what constitutes adverse action and the ramifications of an unfavorable court decision.

Finally, employees who are involved in entering recruitment data into archival records should undergo in-depth training concerning the importance of accurate demographic identification of candidates.

VIII. RECOMMENDATIONS

Organizations should be authorized and have assigned personnel trained in EEO procedures, along with adequate support personnel, to ensure that recruitment and placement procedures meet the requirements of the Uniform Guidelines on Employee Selection Procedures. All management personnel should be fully trained in the area of adverse impact and equal employment. Bradley and Kennedy (1987)[16] identify a need for counselors assisting various subgroups to exert their influence, both individually and collectively through their professional associations, to ensure that effective recruitment programs are designed to provide employment opportunities for groups that have problems finding employment. The US Army Missile Command and the Department of the Army have been leaders in providing employment opportunities for blacks. Concerted efforts should be made to ensure that the black community is aware of these efforts.

In case of a legal challenge, administrators should ensure that employees selected to gather and analyze information for the defense are those who understand archival data and have knowledge of the computer system that will produce the data. The selected employees should also be fully aware of the implications resulting from an adverse ruling. It should never be assumed that personnel recruiters possess the ability to gather and analyze archival data merely because they are effective in the process of recruitment and placement.

REFERENCES

1. Chruden, H. J., and Sherman, Jr., A. W., Managing Human Resources, Cincinnati, OH: South Western Publishing Co., 1984.

2. Davis, L. E., Individuals and the Organization, California Management Review, Vol. XXII, No. 3 (Spring 1980), p. 8.

3. Nakano, George M., Commander's Bane: Equal Employment Opportunity Civil Suits, Commandant, Air War College, Maxwell AFB, AL, April 1978.

4. Kennedy, R. Bryan, Effectiveness of the Veteran's Readjustment Program at the US Army Missile Command in Attracting Blacks into the Work Force Through FY84 - Final Report, Civilian Personnel Office, US Army Missile Command, Redstone Arsenal, AL, December 1985.

5. Taylor, Daniel P., An Air Force Under EEOC? Some Considerations, Air University, Maxwell Air Force Base, AL, May 1975.

6. Executive Order 8802, 25 June 1941.

7. Executive Order 9664, 20 December 1945.

8. Executive Order 11246, 24 September 1965.

9. Executive Order 11375, 13 October 1967.

10. Executive Order 11478, 8 August 1969.

11. Comptroller General's Report to the Congress, Conflicting Congressional Policies: Veteran's Preference and Apportionment vs Equal Employment FPCD-76-61, September 29, 1977.

12. Equal Employment Opportunity Act of 1972.

13. Public Law 95-454, Civil Service Reform Act, October 13, 1978.

14. Comptroller General's Report to the Congress, Uniform Guidelines on Employee Selection Procedures Should be Reviewed and Revised FPCD-82-26, July 30, 1982.

15. Kennedy, R. Bryan, Criticality of Archival Demographic Data in Preparing for Equal Employment/Discrimination Court Challenges, Civilian Personnel Office, US Army Missile Command, Redstone Arsenal, AL, October 1987.

16. Bradley, Loretta P. and Kennedy, R. Bryan, Outcomes from Job-Recruiting Efforts to Assist Black Veterans, Journal of Employment Counseling, 1987, 27, No. 2, 56-60.

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